



Response to Comments

Agreed Order and Public Participation Plan

Duwamish Waterway Park Cleanup Site Seattle, WA

Toxics Cleanup Program

Washington State Department of Ecology

Northwest Regional Office

Shoreline, Washington

April 2023

Publication Information

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- Shoreline at Duwamish Waterway Park (City of Seattle)

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- Clean-up site ID: 15139
- Facility site ID: 49919

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¹ www.ecology.wa.gov/contact

Department of Ecology's Regional Offices

Map of Counties Served



Southwest Region 360-407-6300	Northwest Region 206-594-0000	Central Region 509-575-2490	Eastern Region 509-329-3400
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Region	Counties served	Mailing Address	Phone
Southwest	Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Mason, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum	PO Box 47775 Olympia, WA 98504	360-407-6300
Northwest	Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom	PO Box 330316 Shoreline, WA 98133	206-594-0000
Central	Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima	1250 W Alder St Union Gap, WA 98903	509-575-2490
Eastern	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman	4601 N Monroe Spokane, WA 99205	509-329-3400
Headquarters	Across Washington	PO Box 46700 Olympia, WA 98504	360-407-6000

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DEPARTMENT OF
ECOLOGY
State of Washington

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Public Outreach Summary

The Duwamish Waterway Park cleanup site is located at 7900 10th Avenue South, in Seattle WA. The approximately 1.7 acre Site is adjacent to the Lower Duwamish Waterway (LDW). The Duwamish Waterway Park cleanup site is beginning Washington State's [formal cleanup process](#)² as directed under the Model Toxics Control Act ([MTCA](#)³).

The Washington State Department of Ecology has negotiated a legal agreement called an Agreed Order with City of Seattle (City), the Potentially Liable Persons (PLPs), for the 7900 10th Avenue South (Site). The Agreed Order requires the PLPs to address contamination at the site.

Ecology invited input on the following documents:

- **Agreed Order:** legal document that requires the PLPs to investigate environmental conditions, complete a Remedial Investigation (RI), Feasibility Study (FS), and a draft Cleanup Action Plan (dCAP).
- **Public Participation Plan:** describes how Ecology will inform the community about site activities and ways to become involved.

Ecology's public involvement activities related to this 45-day comment period (January 30 – March 15, 2023) included:

- **Fact Sheet:**
 - US mail distribution of a fact sheet providing information about the documents, the public comment period, public meetings to approximately 2,770 addresses including neighboring businesses and other interested parties.
 - Email distribution of the fact sheet to over 900 people, including interested individuals, local/county/state/federal agencies, neighborhood associations, and interested community groups.
 - The fact sheet was also available digitally through Ecology's [cleanup site webpage](#)⁴.
- **Legal Notice:**
 - Publication of one paid display ad in *The Seattle Times*, dated, Friday, January 27, 2023.
- **Site Register:**
 - Publication of 5 notices in Ecology's Toxics Cleanup Site Register:
 - Comment Period Notice:
 - January 26, 2023
 - February 9, 2023
 - February 23, 2023
 - March 9, 2023

² <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-process>

³ <https://ecology.wa.gov/mtca>

⁴ <https://apps.ecology.wa.gov/cleanupsearch/site/15139>

- Response Summary Notice:
 - May 4, 2023
 - Visit [Ecology's Site Register website](#)⁵ to download PDFs.
 - **Media Notification:**
 - Ecology sent a media notice on Thursday, January 26, 2023, to Seattle area media outlets.
 - **GovDelivery Email System Notifications:**
 - January 17, 2023: Ecology included outreach information and links for the comment period and public meeting to Ecology's January Duwamish River Update which has over 850 email subscribers.
 - January 26, 2023: Ecology sent a notice to a list of approximately 30 community groups and organizations with outreach information and links for the comment period and public meetings.
 - February 15, 2023: Ecology included information about a blog story and links for outreach information for the open comment period to Ecology's February Duwamish River Update which has over 850 email subscribers.
 - **Social Media:**
 - **Blog:** On Friday, February 3, 2023, Ecology's Northwest Regional Office posted a story about Duwamish Waterway Park site comment periods on [Ecology's blog](#)⁶, which has approximately 1,200 email subscribers.
 - **Twitter:** Ecology – Northwest Region @ecyseattle posted a [tweet](#)⁷ on Monday, January 30, 2023 connecting readers to the comment period including the cleanup site webpage.
 - **Online and In-Person Public Meetings:**
 - Ecology hosted an [online public meeting](#)⁸ Tuesday, February 7, 2023 at 12:00 p.m. through the Zoom meeting application. Ecology also hosted an in-person public meeting Wednesday, February 8, 2023 at 6:30 p.m. Interpretation was available in Spanish, Chinese, Vietnamese, Khmer, Somali, and Amharic. Ecology and City of Seattle staff presented details on the Duwamish Waterway Park site, the review documents, and then answered questions.
 - **Websites:**
 - Ecology announced the public comment period, Ecology's public meeting, posted the fact sheet (including translations in Spanish, Chinese, Vietnamese, Khmer, Somali, and Amharic), and made the review documents available on Ecology's [Duwamish Waterway Park webpage](#)⁹ and Ecology's [Public Inputs & Events webpage](#)¹⁰.

⁵<https://apps.ecology.wa.gov/publications/UIPages/PublicationList.aspx?IndexTypeName=Program&NameValue=Toxics+Cleanup&DocumentTypeName=Newsletter>

⁶ <https://ecology.wa.gov/Blog/Posts/February-2023/Cleaning-Up-Getting-ready-to-clean-up-Duwamish>

⁷ <https://twitter.com/ecyseattle/status/1620188906384949249?s=20>

⁸ <https://apps.ecology.wa.gov/cleanupsearch/document/121595>

⁹ <https://apps.ecology.wa.gov/cleanupsearch/site/15139>

¹⁰ <https://ecology.wa.gov/Events/Search/Listing>

- **Document Repositories:**
 - Copies of the review documents and fact sheets (including translations) were available for review at Seattle Public Library’s South Park Branch.
 - Outreach materials also directed the public to contact Ian Fawley, Senior Outreach Planner (ian.fawley@ecy.wa.gov), for document review assistance.

Comment Summary

From January 30 – March 15, 2023, Ecology invited public comments on a legal agreement (agreed order) and public participation plan for the Duwamish Waterway Park site.

Ecology received comments from eight commenters during the 45-day comment period.

Table 1: List of Commenters

	First Name	Last Name	Agency/Organization/Business	Submitted By
1	Robin	Schwartz	NA	Individual
2	Robin	Schwartz	NA	Individual
3	Robert	Hanlon	NA	Individual
4	Carson	Hayes	NA	Individual
5	Jessica	Miller	NA	Individual
6	Anonymous Resident	Anonymous Resident	NA	Individual
7	Anonymous	Anonymous	NA	Individual
8	Jamie Hearn / Christian Poulsen		Duwamish River Community Coalition	Organization

Next Steps

Ecology has reviewed and considered the public comments received on the documents and will finalize both documents.

Based on Ecology’s evaluation of the comments, no updates were made to the Agreed Order.

Ecology has also reviewed and considered the comments on the Public Participation Plan (PPP) and based on public comments regarding the Duwamish Valley community, Ecology will continue to refine our public outreach planning by scheduling public meetings during the evenings at locations, when possible, that are closer to affected communities; offering simultaneous (online

and in-person) meetings with interpretation and providing technical device access; and offering light refreshments during open houses preceding public meetings. Ecology will also continue to explore providing childcare during public meetings.

Ecology will finalize the PPP. We will continue to evaluate the community’s use of our adjusted LDW site outreach planning for future comment periods and will amend the PPP, as needed, based on community engagement.

The Duwamish Waterway Park site is continuing the cleanup process. Ecology will make the future Remedial Investigation, Feasibility Study, and Cleanup Action Plan available for public review and comment.

See graphic below and visit Ecology’s [cleanup process webpage](#)¹¹ to learn more Washington’s formal cleanup process.

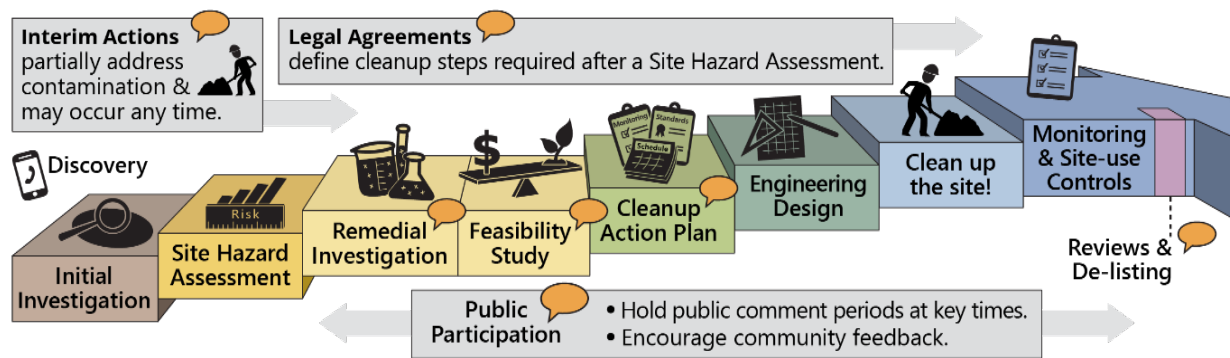


Figure 1: Washington's formal cleanup process ([download a text explanation](#)¹²)

Comments and Responses

The public comments are presented below, along with Ecology’s responses. Appendix A, page 21, contains the comments in their original format.

Comment from: Robin Schwartz

I am concerned because an RV that recently moved in next to the playground dumped a bucket of something last night into the playground. To whom should I report this activity?

Thanks

Robin

¹¹ <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-process>

¹² <https://apps.ecology.wa.gov/publications/SummaryPages/1909166.html>

Response:

From: Butler, David (ECY) <butd461@ECY.WA.GOV>

Sent: Tuesday, February 7, 2023 3:44 PM

To: Robin Schwartz

Cc: Fawley, Ian (ECY) <IFAW461@ECY.WA.GOV>; Nuszer, Augie (ECY) <naug461@ECY.WA.GOV>

Subject: Duwamish Waterway Park: Agreed Order and Public Participation Plan Comment

Hi Robin,

Thank you for submitting comments on the Duwamish Waterway Park Agreed Order and Public Participation Plan. We will provide formal responses in a “responsiveness summary” once the comment period closes. However, I noticed that one of your comments related to materials begin dumped at the park. Thank you for bringing this to our attention.

There are a number of way to report spills or dumping to Ecology. You can submit an online form or contact the Northwest Region Office directly:

Online: [Statewide reporting form](#)

Email: nwroerts@ecy.wa.gov

Phone: 206-594-0000

Thanks,

David Butler, LG, LHG

Hydrogeologist 4

Toxics Cleanup Program, NWRO

WA State Department of Ecology

Cell: 206-518-3513

Mon – Thurs: 7:30am – 6:00pm

Comment from: Robin Schwartz

I wanted to share that I've heard from several community members that a noon meeting is not accessible for them.

Thanks

Robin

Response:

Thank you for the feedback regarding the timing of the online public meeting. We hope the additional in-person meeting offered at 6:30 p.m. on February 8 helped provide an additional time of the day option. We will take your feedback in consideration when planning future public meetings.

Comment from: Robert Hanlon

1) Have there been contaminants identified (or testing planned) associated with the operations of United Site Services, including cleaning agents, industrial chemicals, oils, etc.?

2) Do the contaminants found in soils at site have the potential to migrate from, or to, other sites? That is, will the origin be determined, and assessment of fate inform actions?

Thanks!

Response:

Phase I and Phase II Environmental Site Assessments (ESA) have been completed for the United Site Services property, which has been termed the Duwamish Waterway Park Addition in the Agreed Order. The ESAs found arsenic, chromium, and polycyclic aromatic hydrocarbons (PAHs) in soil on the property above screening levels.

The Remedial Investigation (RI) for Duwamish Waterway Park will fully investigate contamination at the site (including the Park Addition). Which contaminants are likely to be present at the site and which contaminants will be investigated during the RI, will be based on current and historic site use along with area wide knowledge.

The RI will investigate all potential transport mechanisms for contamination at the site. Migration to and from the site will be investigated as part of this. Potential sources (or the origin) of contamination and the fate of the contaminants will be critical pieces of information to determine in the RI.

Comment from: Carson Hayes

Ecology and the City need to work together on this clean up with expediency. So far Ecology has acted randomly (no more VCP, no we just decided that there's a more formal process). Then Ecology cancelled the first public meeting at 630p on Feb 8th and moved it a day earlier and to noon timeframe that most working people can't attend, and then failed to tell the stakeholders. Ecology needs to learn how to work with the City and the South Park community and stop shutting out stakeholders. So far not cool. If Ecology just wants to get it done, then that's fine, but stop with this "we care" what the community thinks facade. If the park is really that dirty like you guys claim then this work should have already been completed a decade ago. No more excuses and process garbage, just get it done, quickly and with less deceptive behavior.

Response:

Thank you for your comment. We apologize for any misunderstanding on the public meetings, but Ecology did not cancel any public meetings. Ecology held two public meetings. The first was held on

Tuesday, February 7 at noon online via the Zoom application. The second was an in-person meeting held on Wednesday, February 8 at 6:30 p.m. at South Seattle College.

Ecology will work with the City of Seattle to complete the cleanup in a timely manner in accordance with Washington State's environmental law, the Model Toxics Control Act ([MTCA](#)¹²), which includes public participation at key steps in the [formal cleanup process](#)¹³.

Comment from: Jessica Miller

After everything this community has been through it is imperative that this process gets expedited with the full attention of all agencies involved so the park can be fully returned to public use as quickly as possible. During the course of this process the park must remain open (rotating in smaller sections of work if necessary), including maintaining beach access to the water. If beach access is to be restricted - work must be limited to the winter months of November to February to limit disruption of public use.

Response:

Ecology and the City of Seattle are committed to working collaboratively during the cleanup process and will do our best to expedite the process. Public access and use of the park will be fully considered when planning and performing the remedial investigation.

Comment from: Anonymous Resident

Remediation for the waterway park should be focused first and foremost on restoration and remediation of damaged ecology. Not 'public enjoyment' and urban bureaucratic efforts to address other important but unrelated community needs; specifically, bring back ecological stability by creating natural spaces with trees, permeable surfaces instead of pavement, and use this opportunity to close the very sad and real loophole is addressing pressing climate needs for the future of the planet - remove vagrants and abusers of public lands and restore essential habitat to the river basin. Restore what is lost and essential, and being lost at a faster pace than can be replaced: natural assets. Not public art. Not ADA accessible ramps. Not community learning centers. These are important but frankly irrelevant to the more urgent global and local crisis of habitat destruction. Restore the land, uphold the very definition of the agency: Environmental Protection.

Response:

The Department of Ecology's cleanup process under MTCA focuses on environmental cleanup and does not address vagrancy, public art, ADA accessibility, or learning centers. Please work with the Seattle Parks and Recreation on concerns related to park development.

¹² <http://www.ecology.wa.gov/MTCA>

¹³ <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-process>

Comment from: Anonymous

It was incredibly frustrating for the community to have the park closed for more than a year after improvements were made, only to be reopened without further action. Are the current conditions bad enough that the park shouldn't have been reopened, or should it never have remained closed in the first place? In a neighborhood with limited green space, removing access has a huge impact and has given me the perception that our well being is not prioritized, either because of spurious closures or ineffective remediation. In upcoming stages of the project, I would suggest prioritizing efficiency and access. I don't want to spend more years walking daily by a fenced off park.

Response:

The closure of the park was a decision by Seattle Parks and Recreation. While performing the work specified by the Agreed Order, Ecology and the City of Seattle will collaborate to ensure that efficiency and public access are prioritized while also ensuring the work is performed to the standards specified in MTCA.

Comment from: Jamie Hearn (Duwamish River Community Coalition)

[See original formatted comment letter attachment in Appendix A. The comment below has been divided into comment sections to better organize responses.]

Comment Section 1



Elevating the voices of those impacted by the Duwamish River pollution and other environmental injustices to advocate for a clean, healthy, and equitable environment for people and wildlife. Promoting place-keeping and prioritizing community capacity and resilience.

March 7, 2023

David Butler

david.butler@ecy.wa.gov

Site Manager

Ian Fawley

ian.fawley@ecy.wa.gov

Public Involvement Coordinator

RE: Duwamish Waterway Park Agreed Order, Public Participation Plan, and Local Considerations for Environmental Justice.

To Mr. Butler and Mr. Fawley,

Thank you for the opportunity to comment on the Duwamish Waterway Park Agreed Order and Public Participation Plan. It is vitally important that community voices are heard on the issues that directly impact them. The Duwamish River Community Coalition (DRCC) has long been a community steward for environmental justice in the Duwamish Valley, which is one of the most polluted areas in the entire Pacific Northwest following over a century of industrial dumping and release of toxic waste. We seek to amplify the will and voices of community members harmed by the combined impacts of environmental, economic, and health inequities present in the Duwamish Valley.

The Duwamish Waterway Park (DWP) is an incredibly important asset to our underserved community, which has very limited access to green space available for public use compared to the other Seattle neighborhoods. The South Park neighborhood has about [half of the acreage per resident](#) dedicated to parks and open spaces as the rest of Seattle, which is as vital to mental health and well-being as physical. Studies have shown a strong link between time spent in outdoor spaces and decreased rates of anxiety, depression, lowered blood pressure and increased capacity to deal with stressful life events, such as the prolonged periods of social isolation associated with the COVID pandemic. The shared reality of the majority BIPOC, low-income, and immigrant communities that call the valley home is vastly different than that of wealthier, predominantly white communities in other parts of the city. Our community needs a clean, safe and accessible Duwamish Waterway Park to take their children learn to swim or fish, to watch the salmon run or osprey hunt, to celebrate birthdays or enjoy a quiet moment of solitude watching Seattle's only river on its journey from the Cascades to the Salish Sea.

The DRCC thanks the Washington State Department of Ecology (ECY) for what it found to be a substantive and thoughtful attempt at genuine engagement with the community as it continues to adapt to and implement Environmental Justice mandates contained in the Healthy Environment for All Act (HEAL). Our community has shared their excitement at the prospect of turning this site from a contaminated, inaccessible area into a community asset with space for public use, and has also expressed a strong desire to be more involved in these processes. The DRCC has organized public events to engage with the community about this issue and we collectively offer the

following recommendations on how The Department of Ecology can improve the current draft of the Public Participation Plan (PPP) and Agreed Order (AO) for the DWP, which are explained further in this letter. Our comments on the Public Participation Plan are centered around concerns for environmental justice and enhanced community engagement.

Response Section 1:

Thank you for your comment and continued engagement in the Duwamish Waterway Park cleanup process.

Comment Section 2:

PUBLIC PARTICIPATION PLAN COMMENTS

- I. THE DEPARTMENT OF ECOLOGY SHOULD DISCUSS THE UNIQUE NEED FOR OPEN SPACE AND INCREASED ACCESSIBILITY IN THE DUWAMISH VALLEY.

Because South Park enjoys less green space than the rest of the City of Seattle, our community has an increased reliance on resources like the Duwamish Waterway Park. As a result, this plan should elaborate on how potential exposure to contamination and a lack of open space in South Park is of particular concern to this environmental justice community and should also address in more detail the cumulative health disparities experienced in the Duwamish Valley. The community has asked for specific examples of how the Department of Ecology and Liable Parties plan to communicate the risks associated with usage of the park, if and what signage will be erected, and if safety infrastructure will be installed to reduce any risk associated with normal use of the park for a community with few available alternatives to access green spaces.

The community has also long asked for hand and foot washing stations to be installed without a substantive response from city or state officials, and this park has already been in some process of investigation and cleanup for several years. This PPP provides little detail addressing these points, and Public Participation Plans should be tailored to address unique community concerns for each site rather than using a general plan that is used across all sites.

Response Section 2:

Thank you for your response highlighting the need for green space. We are aware of the significance of this park for the community, and we are acting diligently to make sure we advise the safest approach to park usage, while also measuring the concerns. The park itself is owned by the City of Seattle, and we are working with the City to maintain the quality and safety of the park throughout the formal cleanup process. Ecology will also work with the City on any signage needed regarding the cleanup.

Ecology will also pass along your hand and foot washing station request to the City.

Comment Section 3:

II. ENVIRONMENTAL JUSTICE COMMUNITIES NEED MORE ROBUST COMMUNITY OUTREACH AND ENGAGEMENT FROM ALL PARTIES.

Mailers are insufficient on their own, and enhanced community engagement in overburdened communities requires community involvement that goes beyond the mailbox and engages community members in-person, in their preferred language, and according to the unique scheduling needs of a predominantly immigrant, working-class population with limited English proficiency. The Department of Ecology should partner with communities to design culturally appropriate outreach, education and risk communication lacking in the Duwamish Waterway Park Public Participation Plan, as written.

The Department of Ecology should expand its outreach efforts to include more in-situ community engagement activities like door-knocking and flier/poster distribution in the South Park neighborhood, and include how it intends to share this and future plans with the community members (~36 families) currently displaced by the January 2023 “King Tide” South Park neighborhood flooding event that live in close proximity to the Duwamish Waterway Park.

Response Section 3:

Thank you for your feedback on community engagement. We understand that the Duwamish Valley community requires more intensive outreach than other areas, so we are actively trying new methods to meet the needs of South Park and Georgetown. This includes having interpretation in six different languages for public meetings, and if meetings are in the evening, we will work to secure meeting locations that enable us to provide light refreshments as well. We will also carefully consider the timing of our public meetings, incorporating your feedback about accessibility. We plan on incorporating Open Houses before future public meetings, which will include food. We will also work to secure locations that are closer to the communities in question.

In terms of in-situ community engagement activities, we have attended community events held by DRCC and other community organizations’ and groups’ meetings and will continue to explore opportunities to join future events. Ecology is committed to securing additional staff to help address the unique needs of the Duwamish Valley community which will help enable greater team capacity to engage in more in-person community outreach.

We have made efforts to contact the families displaced by flooding earlier in 2023 by working with the City of Seattle flood response staff to provide extra fact sheets (including translations), but we were not able to contact families directly due to privacy considerations and unknown addresses.

Comment Section 4:

III. THE DEPARTMENT OF ECOLOGY SHOULD MAKE PUBLIC MEETINGS MORE ACCESSIBLE FOR ENVIRONMENTAL JUSTICE COMMUNITIES.

The Department of Ecology should continue to explore ways to overcome economic and technological barriers to outreach for in-person community meetings that acknowledge the special nature of the area. Translation services for in-person meetings currently require community members to bring cell phones to access them, creating a technological/economic barrier for a community earning well below the median income and possessing limited English language skills, and community has expressed that Ecology should strive to meet the community where they are by holding meetings in the South Park and Georgetown neighborhoods, scheduled during the evenings, and avoiding midday meetings that exclude many working families.

For community members unable to attend in-person and online, meetings should be recorded and made available to community members and local CBO's for review. Translation services for in-person meetings currently require community members to bring cell phones to access them, creating a technological/economic barrier for a community earning well below the median income and possessing limited English language skills relative to the general population in the region.

Further, our community has expressed that the public meetings for this comment period were not accessible. Holding an in-person meeting in West Seattle was inconvenient for many community members, especially since those most impacted by decisions about DWP live in South Park. Many residents also rely on public transportation, so having meetings in the community is necessary. Therefore, in-person meetings should be held in South Park or Georgetown so that more community members can attend. Our community has also expressed the need for food and child care at in-person meetings. Providing such accommodations make these events more family friendly and make attendance less of a burden on community members.

Finally, for online meetings, our community would prefer evening meetings rather than meetings during the day. Having an online meeting at noon on a weekday was not accessible, and many community members expressed this to us. Many people have jobs where their lunch break is not consistently set at noon, and some do not have a full hour to spare in the middle of the day. Making these adjustments to the way public meetings are held will make the public comment process significantly more accessible.

Response Section 4:

Thank you for your feedback regarding public meeting accessibility.

We have considered this feedback and plan to make changes for future comment periods. We will work to offer cell phones and headphones for in-person meetings and interpretation services, which we hope will help remove this barrier and enable more language access.

At this time, Ecology does not have the capability to record meetings with multiple interpreters and then provide an accessible video for all languages after the meeting.

We appreciate your feedback about in-person meeting locations and will consider locations that are closer to the neighborhoods of concern and more accessible for the community in future public meetings. We are considering various methods to provide food and childcare to ease the burden of community engagement for the South Park and Georgetown communities.

Thank you for your feedback regarding the time of day for public meetings. Ecology wanted to provide multiple meeting times throughout the day in consideration of various work schedules. We appreciate your feedback on how best to adjust, and we understand now that the noon timeframe is not preferred in the Duwamish Valley community. For future public meetings, we will try holding simultaneous (online and in-person) meetings during the evening hours with an open house preceding to allow for more flexibility for those choosing to travel and join in-person as well as those who prefer to join online. We welcome community feedback on our meeting approach so that we can continue to adjust for the community's needs.

Comment Section 5:

AGREED ORDER COMMENTS

IV. THE AGREED ORDER NEEDS TO INCLUDE MORE DETAILS ABOUT HOW OUR COMMUNITY CAN EXPECT TO BE GIVEN ACCESS TO INFORMATION BY ECOLOGY.

In section 7.2 of the Agreed Order, it states that communities will be informed of significant changes. Due to this site being a public park and the aforementioned need for green spaces in this community, there is increased concern about being informed of significant changes. Ecology should specify how community members can expect to receive notice of any significant changes to the agreement.

Additionally, the Agreed Order should also be drafted with the needs of an environmental justice community in mind. Meaningful engagement requires consultation, community-driven involvement, and shared leadership. This should include more public meetings with Ecology representatives both in-person and online to address questions and concerns, hold conversations with the community about ways to make public comment more accessible, and solicit feedback from the public on what their engagement needs are for each site. Public meetings should be culturally relevant to our community which can be achieved by planning events with local organizations who have existing relationships with the community.

In Section 7 of the Appendix, there is discussion of how the Department of Ecology plans to comply with the State Environmental Protection Act (SEPA). This would be a good place to also include a more in depth discussion of how the Department plans to comply with the HEAL Act. Ecology should explain in detail how the Healthy Environment For All (HEAL) Act informed and guided the creation of the Agreed Order as mandated by law. Additionally, the Department of Ecology should

provide examples of how planning for this site meaningfully prioritizes vulnerable environmental justice communities outlined in the HEAL Act absent from previous site plans created prior to the passage and implementation of the Act.

Response Section 5:

If a significant change is made to the Agreed Order, then another public comment period will be scheduled, so that any public concerns can be addressed.

Since implementation of the HEAL Act is ongoing at Ecology, changes to the Agreed Order to include components of the HEAL Act cannot be made at this time. However, the public participation plan can be changed at any time and Ecology can make changes to address the needs of the community as HEAL Act implementation occurs.

What document, and where within that document, it is most appropriate to address the HEAL Act will be determined as Ecology continues implementation of the HEAL Act requirements.

To learn more about Ecology's progress on implementing the HEAL Act visit <https://ecology.wa.gov/About-us/Who-we-are/Environmental-Justice/HEAL> and read the attached report in **Appendix B** "Implementing Washington's Environmental Justice Law (Chapter 70A.02 RCW); Summary of Progress and Implementation Goals."

Comment Section 6:

SUMMARY

In summary, we believe that the Duwamish Waterway Park Public Participation Plan needs to be revised to reflect an Enhanced Community Engagement approach that includes (1) a deeper analysis of the unique need to prioritize access to open spaces in the Duwamish Valley, (2) a more robust community outreach from all parties, (3) a plan to make meetings more accessible for environmental justice communities, (4) more information on how community can expect access to information given by The Department of Ecology. We request that the Department of Ecology revise their Public Participation Plan to include the aforementioned Enhanced Community Engagement approach.

We appreciate this opportunity to provide comments. Please do not hesitate to contact us if you have any questions.

Response Section 6:

Thank you for your community engagement feedback.

Ecology's Public Participation Plans (PPPs) reflect our commitment to fulfill MTCA's legal, public involvement requirements. These PPPs are also a practical commitment to the amount of outreach that Ecology's current resources (staffing and funding) can fulfill. We will strive to do the most

effective outreach that we can with the staffing and resource capacities we have. Ecology is also committed to securing additional staff to help address the unique needs of the Duwamish Valley community which will help enable greater team capacity to engage in more in-person community outreach.

Ecology may do more outreach than what the PPP conveys. Based on your comments, Ecology will continue to refine our public outreach planning by scheduling public meetings during the evenings at locations, when possible, that are closer to affected communities; offering simultaneous (online and in-person) meetings with interpretation and providing technical device access; and offering light refreshments during open houses preceding public meetings. Ecology will also continue to explore providing childcare during public meetings.

Ecology will finalize the PPP. We will continue to evaluate the community's use of our adjusted LDW site outreach planning for future comment periods and will amend the PPP, as needed, based on community engagement.

Appendices

Appendix A. Public comments in original format

Appendix B. “Implementing Washington’s Environmental Just Law (Chapter 70A.02 RCW) Summary of Progress and Implementation Goals”

Appendix A. Public comments in original format

Robin Schwartz

I am concerned because an RV that recently moved in next to the playground dumped a bucket of something last night into the playground. To whom should I report this activity?

thanks

robin

Robin Schwartz

I wanted to share that I've heard from several community members that a noon meeting is not accessible for them.

Thanks

Robin

ROBERT HANLON

1) Have there been contaminants identified (or testing planned) associated with the operations of United Site Services, including cleaning agents, industrial chemicals, oils, etc.?

2) Do the contaminants found in soils at site have the potential to migrate from, or to, other sites? That is, will the origin be determined, and assessment of fate inform actions?

Thanks!

Carson Hayes

Ecology and the City need to work together on this clean up with expediency. So far Ecology has acted randomly (no more VCP, no we just decided that there's a more formal process). Then Ecology cancelled the first public meeting at 630p on Feb 8th and moved it a day earlier and to noon timeframe that most working people can't attend, and then failed to tell the stakeholders. Ecology needs to learn how to work with the City and the South Park community and stop shutting out stakeholders. So far not cool. If Ecology just wants to get it done, then that's fine, but stop with this "we care" what the community thinks facade. If the park is really that dirty like you guys claim then this work should have already been completed a decade ago. No more excuses and process garbage, just get it done, quickly and with less deceptive behavior.

Jessica Miller

After everything this community has been through its is imperative that this process gets expedited with the full attention of all agencies involved so the park can be fully returned to public use as quickly as possible. During the course of this process the park must remain open (rotating in smaller sections of work if necessary), including maintaining beach access to the water. If beach access is to be restricted - work must be limited to the winter months of November to February to limit disruption of public use.

Anonymous Resident, Duwamish riverway

Remediation for the waterway park should be focused first and foremost on restoration and remediation of damaged ecology. Not 'public enjoyment' and urban bureaucratic efforts to address other important but unrelated community needs; specifically, bring back ecological stability by creating natural spaces with trees, permeable surfaces instead of pavement, and use this opportunity to close the very sad and real loophole is addressing pressing climate needs for the future of the planet - remove vagrants and abusers of public lands and restore essential habitat to the river basin. Restore what is lost and essential, and being lost at a faster pace than can be replaced: natural assets. Not public art. Not ADA accessible ramps. Not community learning centers. These are important but frankly irrelevant to the more urgent global and local crisis of habitat destruction. Restore the land, uphold the very definition of the agency: Environmental Protection.

Anonymous Anonymous

It was incredibly frustrating for the community to have the park closed for more than a year after improvements were made, only to be reopened without further action. Are the current conditions bad enough that the park shouldn't have been reopened, or should it never have remained closed in the first place? In a neighborhood with limited green space, removing access has a huge impact and has given me the perception that our well being is not prioritized, either because of spurious closures or ineffective remediation.

In upcoming stages of the project, I would suggest prioritizing efficiency and access. I don't want to spend more years walking daily by a fenced off park.



Elevating the voices of those impacted by the Duwamish River pollution and other environmental injustices to advocate for a clean, healthy, and equitable environment for people and wildlife. Promoting place-keeping and prioritizing community capacity and resilience.

March 7, 2023

David Butler
david.butler@ecy.wa.gov
Site Manager

Ian Fawley
ian.fawley@ecy.wa.gov
Public Involvement Coordinator

Re: Duwamish Waterway Park Agreed Order, Public Participation Plan, and Local Considerations for Environmental Justice

To Mr. Butler and Mr. Fawley,

Thank you for the opportunity to comment on the Duwamish Waterway Park Agreed Order and Public Participation Plan. It is vitally important that community voices are heard on the issues that directly impact them. The Duwamish River Community Coalition (DRCC) has long been a community steward for environmental justice in the Duwamish Valley, which is one of the most polluted areas in the entire Pacific Northwest following over a century of industrial dumping and release of toxic waste. We seek to amplify the will and voices of community members harmed by the combined impacts of environmental, economic, and health inequities present in the Duwamish Valley.

The Duwamish Waterway Park (DWP) is an incredibly important asset to our underserved community, which has very limited access to green space available for public use compared to the other Seattle neighborhoods. The South Park neighborhood has about [half of the acreage per resident](#) dedicated to parks and open spaces as the rest of Seattle, which is as vital to mental health and well-being as physical. Studies have shown a strong link between time spent in outdoor spaces and decreased rates of anxiety, depression, lowered blood pressure and increased capacity to deal with stressful life events, such as the prolonged periods of social isolation associated with the COVID pandemic. The shared reality of the majority BIPOC, low-income, and immigrant communities that call the valley home is vastly different than

that of wealthier, predominantly white communities in other parts of the city .Our community needs a clean, safe and accessible Duwamish Waterway Park to take their children learn to swim or fish, to watch the salmon run or osprey hunt, to celebrate birthdays or enjoy a quiet moment of solitude watching Seattle's only river on its journey from the Cascades to the Salish Sea.

The DRCC thanks the Washington State Department of Ecology (ECY) for what it found to be a substantive and thoughtful attempt at genuine engagement with the community as it continues to adapt to and implement Environmental Justice mandates contained in the Healthy Environment for All Act (HEAL). Our community has shared their excitement at the prospect of turning this site from a contaminated, inaccessible area into a community asset with space for public use, and has also expressed a strong desire to be more involved in these processes. The DRCC has organized public events to engage with the community about this issue and we collectively offer the following recommendations on how The Department of Ecology can improve the current draft of the Public Participation Plan (PPP) and Agreed Order (AO) for the DWP, which are explained further in this letter. Our comments on the Public Participation Plan are centered around concerns for environmental justice and enhanced community engagement.

PUBLIC PARTICIPATION PLAN COMMENTS

I. THE DEPARTMENT OF ECOLOGY SHOULD DISCUSS THE UNIQUE NEED FOR OPEN SPACE AND INCREASED ACCESSIBILITY IN THE DUWAMISH VALLEY.

Because South Park enjoys less green space than the rest of the City of Seattle,our community has an increased reliance on resources like the Duwamish Waterway Park.As a result, this plan should elaborate on how potential exposure to contamination and a lack of open space in South Park is of particular concern to this environmental justice community and should also address in more detail the cumulative health disparities experienced in the Duwamish Valley. The community has asked for specific examples of how the Department of Ecology and Liable Parties plan to communicate the risks associated with usage of the park, if and what signage will be erected, and if safety infrastructure will be installed to reduce any risk associated with normal use of the park for a community with few available alternatives to access green spaces.

The community has also long asked for hand and foot washing stations to be installed without a substantive response from city or state officials, and this park has already been in some process of investigation and cleanup for several years. This PPP provides little detail addressing these points, and Public Participation Plans should be tailored to address unique community concerns for each site rather than using a general plan that is used across all sites.

II. ENVIRONMENTAL JUSTICE COMMUNITIES NEED MORE ROBUST COMMUNITY OUTREACH AND ENGAGEMENT FROM ALL PARTIES.

Mailers are insufficient on their own, and enhanced community engagement in overburdened communities requires community involvement that goes beyond the mailbox and engages community members in-person, in their preferred language, and according to the unique scheduling needs of a predominantly immigrant, working-class population with limited English proficiency. The Department of Ecology should partner with communities to design culturally appropriate outreach, education and risk communication lacking in the Duwamish Waterway Park Public Participation Plan, as written.

The Department of Ecology should expand its outreach efforts to include more in-situ community engagement activities like door-knocking and flier/poster distribution in the South Park neighborhood, and include how it intends to share this and future plans with the community members (~36 families) currently displaced by the January 2023 “King Tide” South Park neighborhood flooding event that live in close proximity to the Duwamish Waterway Park.

III. THE DEPARTMENT OF ECOLOGY SHOULD MAKE PUBLIC MEETINGS MORE ACCESSIBLE FOR ENVIRONMENTAL JUSTICE COMMUNITIES.

The Department of Ecology should continue to explore ways to overcome economic and technological barriers to outreach for in-person community meetings that acknowledge the special nature of the area. Translation services for in-person meetings currently require community members to bring cell phones to access them, creating a technological/economic barrier for a community earning well below the median income and possessing limited English language skills, and community has expressed that Ecology should strive to meet the community where they are by holding meetings in the South Park and Georgetown neighborhoods, scheduled during the evenings, and avoiding midday meetings that exclude many working families.

For community members unable to attend in-person and online, meetings should be recorded and made available to community members and local CBO's for review. Translation services for in-person meetings currently require community members to bring cell phones to access them, creating a technological/economic barrier for a community earning well below the median income and possessing limited English language skills relative to the general population in the region.

Further, our community has expressed that the public meetings for this comment period were not accessible. Holding an in-person meeting in West Seattle was inconvenient for many community members, especially since those most impacted by decisions about DWP live in South Park. Many residents also rely on public transportation, so having meetings in the

community is necessary. Therefore, in-person meetings should be held in South Park or Georgetown so that more community members can attend. Our community has also expressed the need for food and child care at in-person meetings. Providing such accommodations make these events more family friendly and make attendance less of a burden on community members.

Finally, for online meetings, our community would prefer evening meetings rather than meetings during the day. Having an online meeting at noon on a weekday was not accessible, and many community members expressed this to us. Many people have jobs where their lunch break is not consistently set at noon, and some do not have a full hour to spare in the middle of the day. Making these adjustments to the way public meetings are held will make the public comment process significantly more accessible.

AGREED ORDER COMMENTS

IV. THE AGREED ORDER NEEDS TO INCLUDE MORE DETAILS ABOUT HOW OUR COMMUNITY CAN EXPECT TO BE GIVEN ACCESS TO INFORMATION BY ECOLOGY.

In section 7.2 of the Agreed Order, it states that communities will be informed of significant changes. Due to this site being a public park and the aforementioned need for green spaces in this community, there is increased concern about being informed of significant changes. Ecology should specify how community members can expect to receive notice of any significant changes to the agreement.

Additionally, the Agreed Order should also be drafted with the needs of an environmental justice community in mind. Meaningful engagement requires consultation, community-driven involvement, and shared leadership. This should include more public meetings with Ecology representatives both in-person and online to address questions and concerns, hold conversations with the community about ways to make public comment more accessible, and solicit feedback from the public on what their engagement needs are for each site. Public meetings should be culturally relevant to our community which can be achieved by planning events with local organizations who have existing relationships with the community.

In Section 7 of the Appendix, there is discussion of how the Department of Ecology plans to comply with the State Environmental Protection Act (SEPA). This would be a good place to also include a more in depth discussion of how the Department plans to comply with the HEAL Act. Ecology should explain in detail how the Healthy Environment For All (HEAL) Act informed and guided the creation of the Agreed Order as mandated by law. Additionally, the Department of Ecology should provide examples of how planning for this site meaningfully prioritizes vulnerable environmental justice communities outlined in the HEAL Act absent from previous site plans created prior to the passage and implementation of the Act.

SUMMARY

In summary, we believe that the Duwamish Waterway Park Public Participation Plan needs to be revised to reflect an Enhanced Community Engagement approach that includes (1) a deeper analysis of the unique need to prioritize access to open spaces in the Duwamish Valley, (2) a more robust community outreach from all parties, (3) a plan to make meetings more accessible for environmental justice communities, (4) more information on how community can expect access to information given by The Department of Ecology. We request that the Department of Ecology revise their Public Participation Plan to include the aforementioned Enhanced Community Engagement approach.

We appreciate this opportunity to provide comments. Please do not hesitate to contact us if you have any questions.



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**Appendix B. “Implementing Washington’s Environmental Just Law (Chapter 70A.02 RCW)
Summary of Progress and Implementation Goals”**



Implementing Washington's Environmental Justice Law (Chapter 70A.02 RCW):

Summary of Progress and Implementation Goals

Washington State Department of Ecology

Olympia, Washington

DECEMBER 2022, Publication 23-01-001

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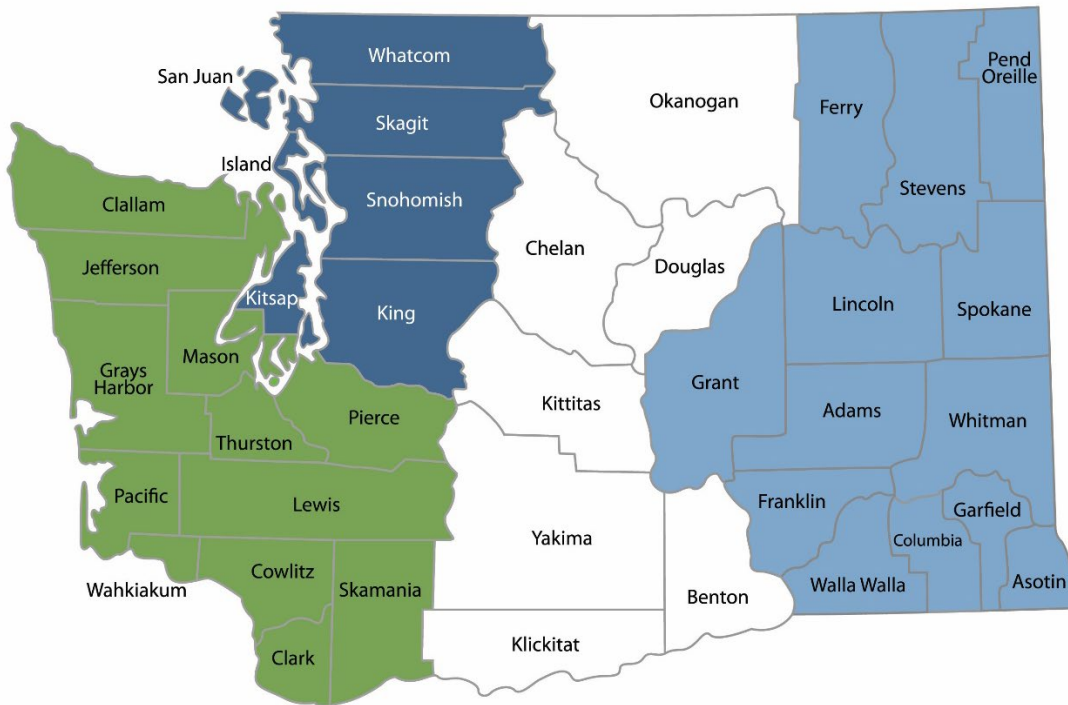
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To request an ADA accommodation, contact Ecology by phone at 360-480-6270 or email at courtney.cecale@ecy.wa.gov. For Washington Relay Service or TTY call 711 or 877-833-6341. Visit Ecology's website for more information.

¹ www.ecology.wa.gov/contact

Department of Ecology's Regional Offices

Map of Counties Served



Southwest Region 360-407-6300	Northwest Region 206-594-0000	Central Region 509-575-2490	Eastern Region 509-329-3400
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Region	Counties served	Mailing Address	Phone
Southwest	Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Mason, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum	PO Box 47775 Olympia, WA 98504	360-407-6300
Northwest	Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom	PO Box 330316 Shoreline, WA 98133	206-594-0000
Central	Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima	1250 W Alder St Union Gap, WA 98903	509-575-2490
Eastern	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman	4601 N Monroe Spokane, WA 99205	509-329-3400
Headquarters	Across Washington	PO Box 46700 Olympia, WA 98504	360-407-6000

Implementing Washington's Environmental Justice Law (Chapter 70A.02 RCW)

Summary of Progress and Implementation Goals

Office of Equity and Environmental Justice
Washington State Department of Ecology
Olympia, WA

December 2022, Publication 23-01-001



DEPARTMENT OF
ECOLOGY
State of Washington

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Introduction

How to use this document

This document summarizes the progress the Department of Ecology has made on the implementation of Washington’s environmental justice law, [Chapter 70A.02 RCW](#)² (also known as the Healthy Environment for All Act, or the HEAL Act). This report identifies how the agency met key legislative targets and outlines the plan for implementing HEAL from 2023-2025. The included timelines in this summary report are only projected goals. In line with the intent of the act, we anticipate this to be an iterative and collaborative process.

What is the environmental justice law?

Washington’s environmental justice law is the first statewide law to create a coordinated and collaborative approach by specific state agencies to address environmental justice. The purpose of the law is to improve environmental and health outcomes for everyone, and more pointedly, to address environmental and health disparities for communities of color and low-income communities.

Implementing collaboratively

This new law takes a historic step toward making environmental justice a priority for key state agencies that have direct impacts on the distribution of environmental and health disparities.

Currently, fourteen agencies are involved in HEAL implementation in some capacity:

- The seven covered agencies identified in the law include Washington state’s Departments of Ecology, Transportation, Commerce, Health, Natural Resources, Agriculture, and the Puget Sound Partnership. They are required to fully implement the law, with slight differences across agencies depending on scope of work. Representatives from these agencies comprise the Interagency Work Group.
- The single opt-In agency is the Attorney General’s Office. They have chosen to fully implement the law.
- Additional “listen & learn” agencies include Recreation and Conservation Office, Washington Department of Fish and Wildlife, State Board of Health, Pollution Liability Insurance Agency, County Road Administration, and Washington State Transportation Commission. They each have their own relationship to the law, and some have participated in support capacities with the Interagency Work Group.

All covered agencies work together in a collaborative and coordinated manner to strategically share resources, streamline processes and avoid redundancies, facilitate clearer public access, improve engagement practices, as well as solve more complex problems that span across our individual jurisdictions. At Ecology, the Interagency Work Group representative from the Office

² <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.02&full=true>

of Equity and Environmental Justice, spearheads the production of plans, process, and guidance to suit our individual agency actions. The representative ensures we continually improve our work by also integrating the expertise and guidance of the Environmental Justice Council (an expert group appointed by the Governor), and communities affected by environmental health disparities.

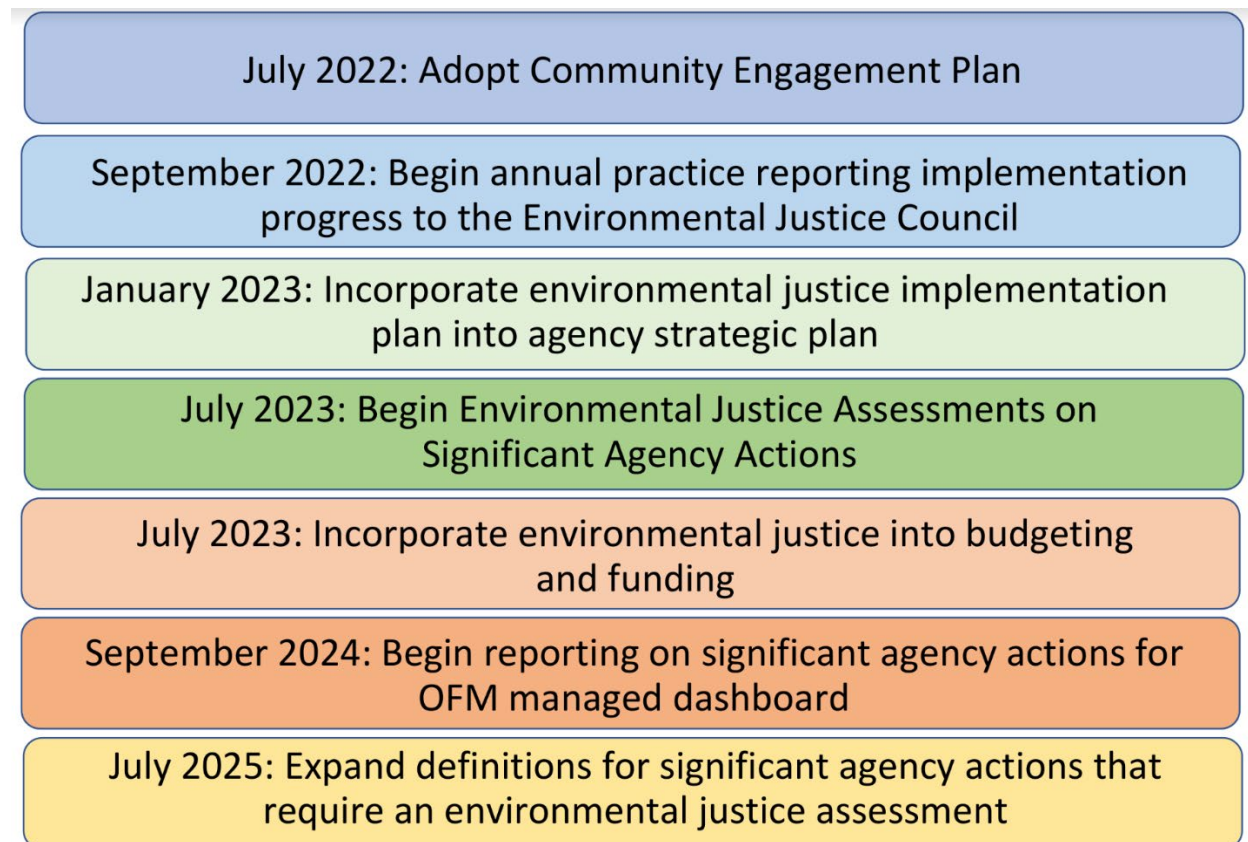
Requirements for Ecology

The HEAL Act requires covered agencies to implement a host of operational and programmatic changes, by specific deadlines (see also RCW.70A.02.040).

With various check-in points and reporting obligations, covered agencies must accomplish 5 primary requirements:

1. Adopt a Community Engagement Plan.
2. Develop and adopt a Tribal Consultation Plan.
3. Incorporate environmental justice into agency strategic plan.
4. Conduct environmental justice assessments on significant agency actions.
5. Incorporate environmental justice into budgeting and funding decisions.

Below is a timeline of the major HEAL milestones and when Ecology expects to complete them.



REQUIREMENT 1: Adopt a Community Engagement Plan ([RCW 70A.02.050³](https://app.leg.wa.gov/RCW/default.aspx?cite=70A.02.050))

Requirements

By July 1, 2022, Ecology must create and adopt a Community Engagement Plan that describes how it will engage with overburdened communities and vulnerable populations as it evaluates new and existing activities and programs.

The plan must include:

- A process for identifying overburdened communities and vulnerable populations.
- Best practices for outreach and communication specifically to overcome barriers to engagement with overburdened communities and vulnerable populations.
- Guidance on how to use available screening tools and technologies.
- Processes that facilitate and support the meaningful inclusion of communities affected by agency decision making.
- Methods for outreach and communication with those who face barriers to participation.

Actions Taken

- From September 2021 to June 2022, the Interagency Work Group created a draft community engagement plan that includes the above listed requirements. From that work, Ecology adopted a Provisional Community Engagement Plan on July 1, 2022, **meeting the statutory requirement.**
- Workgroups at Ecology have since been focused on **making the provisional plan actionable** across programs with differing regulatory authorities, goals, and protocols. We are in the process of developing useful instructional guides, self-serve educational content, and trainings to help our team achieve the collaboratively developed goals envisioned by the Interagency Work Group – with flexibility to account for anticipated feedback (expected by the summer of 2023).
- Ecology’s Office of Equity and Environmental Justice (which formed in 2021) has filled **new positions that oversee this work**, and the office is anticipating five more positions including a full-time position dedicated to the community engagement and Tribal consultation components of the Environmental Justice Law (expected by end the end of 2022 or early 2023).
- Ecology is in the process of adopting guidance from the Governor’s Office of Equity on **community compensation**, which will support engagement with impacted peoples by

³ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.02.050>

reducing financial barriers to participation (expected in January 2023). Adopting this law into agency practices will help support Ecology’s community engagement goals, as the agency works towards the implementation of Washington’s environmental justice law. Ecology’s Interagency Work Group representative is working closely with other agencies to share best practices, and potentially leverage collective resources towards this effort.

Looking Forward

- Ecology representatives in the Interagency Work Group are helping to plan statewide community **listening sessions** from March-November 2023, to help improve our new community engagement practices, and co-develop metrics and accountability mechanisms. This information will be shared with relevant parties at our agency.
- The plan for listening sessions will be **shared with the Environmental Justice Council** in early 2023, including a recorded presentation and an informational packet, to facilitate greater ease for feedback.
- When provided, Ecology also looks forward to **incorporating guidance from the Environmental Justice Council**, whose knowledge and expertise will be central to the success of these efforts. These sessions should be completed and analyzed by fall 2023, with adjustments to our community engagement practices to follow.
- The community engagement plan will evolve as our agency builds a relationship with the Environmental Justice Council and communities affected by the work of covered agencies. Ecology plans to **update our community engagement plan every two years**, in collaboration with the other covered agencies who have agreed to do the same.
- Finally, the Interagency Work Group representatives aim to develop more streamlined intra-agency processes, including potentially a comprehensive intra-agency **tracking system** to try to avoid redundant community asks, and to help better streamline our engagement processes across agencies.

Projected Timeline – community engagement plan

Year	Month	Action	Responsible People
2022	July 1 st	Legislative Requirement: Ecology adopted a provisional Community Engagement Plan, developed in collaboration with the Interagency Work Group.	Ecology (internal): HEAL Implementation Team
	July 1 st	Legislative Requirement: The Interagency Work Group shared the plan, on behalf of Ecology and the other covered agencies, with the Environmental Justice Council for guidance. When available, this guidance will be incorporated into agency community engagement plans.	Interagency Work Group: Ecology Representative

	October-December	Interagency Work Group Community Engagement subcommittee, including an Ecology representative, began planning community listening sessions for 2023.	Interagency Work Group: Ecology Representative
	November (ongoing)	The Ecology HEAL Implementation Team formed an internal working group with volunteers across the agency. This team has begun developing internal documents to inform community engagement work, including self-serve educational and training materials – and works closely with the Interagency Work Group HEAL Education Subcommittee. This work will be ongoing through the following year.	Ecology (internal): HEAL Implementation Team
2023	January	Interagency Work Group will share draft plan for community listening sessions with the Environmental Justice Council.	Interagency Work Group: Ecology Representative
	January-February	Interagency Work Group Community Engagement Subcommittee will incorporate feedback from the Environmental Justice Council on the plan for listening sessions.	Interagency Work Group: Ecology Representative
	March-October	Hold Community listening sessions with Interagency Work Group across the state on multiple HEAL Act requirements, including community engagement.	Interagency Work Group: Ecology Representative
	September 1 st	Legislative Requirement: Share early analysis from listening sessions in annual update to the Environmental Justice Council.	Interagency Work Group: Ecology Representative
	October	Generate and share report of findings with the Governor’s Office of Equity to identify policy and system barriers to meaningful engagement with overburdened communities and vulnerable populations.	Ecology (internal): HEAL Implementation Team
2023	November-December	Assess, analyze, and apply information from community listening sessions, Environmental Justice Council, Office of Equity, and any additional public engagement activities. Use this information to inform revisions to agency Community Engagement Plan.	Ecology (internal): HEAL Implementation Team

REQUIREMENT 2: Implement Tribal Consultation Plans ([RCW 70A.02.100](#))

Requirements

Covered agencies are required to develop a consultation framework in coordination with Tribal Governments that includes best practices, protocols for communication, and collaboration with federally recognized Tribes on:

- The inclusion or updating of an environmental justice implementation plan.
- The creation, adoption, or updating of community engagement plans.
- Significant agency actions that affect federally recognized Tribe's rights and interests.

Actions Taken

- Ecology's Executive Advisor for Tribal Affairs serves and acts as a key leader on the State Agency Tribal Liaisons HEAL Act Workgroup (an Interagency Subcommittee).
- The workgroup members are **in the process of developing a consultation framework** that includes best practices, protocols for communication, and collaboration pathways with federally recognized Tribes for all covered agencies.
- The group began meeting in the fall of 2022, and is currently **producing and updating initial drafts** for the consultation processes.
- Ecology's Office of Equity and Environmental Justice (which formed in 2021) has filled **new positions to oversee this work**, and the Office anticipates onboarding another staff member to support the implementation of the Tribal consultation plans developed (positions expected by end the end of 2022, or early 2023).

Looking Forward

Ecology's Executive Advisor for Tribal Affairs is also leading an agency **Tribal consultation survey** that will be launched in the spring of 2023. Data will be collected, analyzed, and the consultation process will be developed accordingly with additional support from Ecology's Governmental Relations Office and graduate student researchers from the UW Evans School.

Meeting this HEAL Act requirement, and developing meaningful consultation processes, is expected to take considerable time and require more responsive flexibility in our practices. Each of the 32 federally recognized nations that will be covered by our frameworks may have different capacities and interests in engaging with Ecology, or they might be interested in developing different processes from one another.

Projected Timeline –Tribal consultation plan

Year	Month	Action	Responsible People
2022	November-December	State Agency Tribal Liaisons HEAL Act Workgroup (an Interagency Work Group) convened and began drafting initial engagement guides for both Tribal governments and Tribal communities, along with a definitions appendix.	Interagency Work Group: Ecology Representative
	December	Ecology began development of a survey to inform Tribal consultation processes for the agency.	Ecology (internal): Tribal Relations Government Relations HEAL Implementation Team
2023	January-February	Continued development of survey to inform Tribal consultation process	Ecology (internal): Tribal Relations Government Relations HEAL Implementation Team
	January-February	Host an Interagency Work Group listening session with Tribal leaders and representatives	Ecology (internal): Tribal Relations HEAL Implementation Team
	March-TBD	In partnership with the University of Washington's Evans School of Public Affairs, Ecology will launch the survey. Graduate students, under the supervision of agency experts, will analyze collected information to help inform the development of the Tribal consultation process.	Ecology (internal): Tribal Relations Government Relations HEAL Implementation Team
	TBD	Legislative Requirement: Ecology's Executive Advisor for Tribal Affairs, with the support of relevant HEAL Implementation Team members, will develop formal Tribal Consultation framework for the Agency, on timelines that work best for the federally recognized Tribes. This work will include considerable engagement, including with the Governor's Office of Indian Affairs.	Ecology (internal): Tribal Relations Government Relations HEAL Implementation Team

REQUIREMENT 3: Incorporating Environmental Justice into Agency Strategic Plans ([RCW 70A.02.040](#))

Requirements

The HEAL Act requires covered agencies to include an environmental justice implementation plan within their strategic plan by January 1, 2023. That plan must describe:

- How the agency will apply principles of environmental justice to the agency's activities.
- Agency specific goals and actions to reduce environmental and health disparities.
- Metrics to track and measure accomplishments.
- Strategies to improve community engagement and better democratize our services.
- Strategies to ensure compliance with existing federal and state laws and policies relating to environmental justice.

Actions Taken

Ecology's 2023-2025 Biennial Plan

Ecology has included environmental justice strategies in the agency's [2023-2025 Biennial Plan](#)⁴, with concrete action steps to address equity in our work both internal to the agency and external.

Key Initiatives from the strategic plan include:

- Implementing clear, standardized, and useful environmental justice protocols in enforcement and compliance activities.
- Collaboratively recalibrating environmental reporting and information on violations in overburdened communities for more accurate analyses and public data sharing.
- Integrating environmental justice and equity criteria in budget and funding decisions to distribute expenditures more equitably, create equitable environmental benefits, or reduce harms for overburdened communities and vulnerable populations.
- Implementing a community engagement plan, developed in collaboration with the Environmental Justice Council, to guide our work with communities across Washington.
- Establishing and implementing a Tribal consultation plan to ensure consistent protocols and best practices for engagement, communication, and collaboration.

⁴ <https://ecology.wa.gov/About-us/Who-we-are/Strategic-plan/2023-25-Strategic-Plan#goalbox1>

- Establishing standards in our compliance and enforcement processes that ensure meaningful and inclusive public engagement from diverse communities across the state.
- Increasing the accessibility and transparency of Ecology’s discrimination complaints process. Gathering and using feedback from our customers and employees to inform our work so we can understand where we are successful, address needs, and more equitably and effectively provide our services.
- Increasing the use of engaging visual and audio content to make our external communications more relevant and accessible.
- Improving audit timeliness for testing laboratories in response to feedback from regulatory partners and customers, so potentially impacted people don’t have to wait as long to learn crucial information.
- Implementing recommendations from our diversity, equity, inclusion, and respect (DEIR) Agency Organizational Assessment.
- Operationalizing new and revised anti-discrimination, anti-harassment, workplace accommodation, DEIR policies and procedures using principles of change management to create a culture of belonging and respect for all and be an antiracist organization.
- Updating required job qualifications to recognize that life experiences, work experience, and education are all ways to gain the knowledge, skills, and abilities to perform our work.
- Supporting successful recruitment and retention of a diverse and well-trained workforce that carries out their responsibilities with cultural humility, service excellence, and professionalism.
- Developing and implementing a DEIR training program for our workforce.

Ecology’s mission, vision, goals, and named initiatives incorporate principles of environmental justice, identify agency specific goals, includes metrics, and incorporate strategies to improve community engagement. The strategic plan was published ahead of the 2021 deadline, so it is already [publicly available](#). Consolidated information on our initiatives and plans is also being shared directly with the Environmental Justice Council for review by the end of 2022.

Plan for Partnering with the Environmental Protection Agency

Ecology also incorporates environmental justice into agency strategic plans by way of agreements with the U.S. Environmental Protection Agency (EPA). The [Environmental Performance Partnership Agreement](#) (PPA) establishes and implements a joint work plan between the EPA and the Department of Ecology for administering federal grant dollars that the EPA provides to Ecology for air quality, water quality, and hazardous waste management. For over a decade the PPA has included dedicated agreements on environmental justice priorities, and this work bolsters agency implementation of Washington’s environmental justice law.

Significant relevant environmental justice agreements in the current plan include:

- Establishing a goal of providing all people the same degree of protection from environmental and health hazards, ensuring equal access to decision making processes, and working towards providing a healthy environment for all to live, learn and work.
- Developing metrics for measuring environmental justice.
- Data sharing for tracking and assessing environmental justice progress across the state.
- Hosting environmental justice learning events.
- Developing training opportunities and fostering shared training related to environmental justice.
- Coordinating and working together to tackle issues at the intersection of environmental justice and ongoing climate change.
- In addition the agency strategic plan and PPA, Ecology programs, (such as the Hazardous Waste and Toxics Reduction Program) have also integrated EJ goals into their strategic plans.

Ensuring Compliance with Existing Federal and State Laws

Ecology, as an agency that receives federal funding, is required to comply with several federal and state laws and policies that directly relate to environmental justice, and Ecology affirms our goal of compliance in our strategic plans.

These laws and policies prevent discrimination on the basis of identities and experiences such as disability, race, language, geography, sex, and age, and include:

- Title 40 of the Code of Federal Regulations, parts 5 and 7
- Title 6 of the Code of Federal Regulations, part 21
- Title VI of the Civil Rights Act of 1964, as amended
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Section 13 of the Federal Water Pollution Control Act Amendments of 1972

Ecology strengthens our compliance with these laws by developing and implementing plans that support digital and document accessibility, language access, and nondiscrimination compliance for subrecipients of federal funding. That implementation work is guided and supported by Ecology's Office of Equity and Environmental Justice, Civil Rights Compliance Coordinator, Digital Accessibility Coordinator, and various work groups across the agency.

Looking Forward

Ecology will continue to include environmental justice as an agency priority in future strategic plan developments.

Projected Timeline – agency strategic plans

Year	Month	Action	Responsible People
2022	November	Legislative Requirement: Ecology published 2023-2025 Biennial Strategic Plan, which included our plan for applying the principles of environmental justice into the agency's activities. Completed before the January 1 st legislative deadline.	Ecology (internal): Leadership HEAL Implementation Team Communications
	December 31	Legislative Requirement: Ecology will produce and make available agency summary of progress and implementation goals connected to Washington's Environmental Justice Law. This document outlines how Ecology plans to apply the principles of environmental justice to the agency's activities and guides the agency in its implementation of obligations under the environmental justice law. Completed before the January 1 st legislative deadline.	Ecology (internal): HEAL Implementation Team
2023	February	Legislative Requirement: Share plans with the Environmental Justice Council.	Interagency Work Group: Ecology Representative
	February-December	Work with Ecology offices and programs to find additional goals and metrics for evaluating environmental justice issues and to improve environment and health disparities for overburdened communities and vulnerable populations. This will inform future strategic plans.	Ecology (internal): HEAL Implementation Team
	March-October	Incorporate any feedback that might emerge from Tribal roundtable discussions.	Ecology (internal): HEAL Implementation Team Tribal Relations
	May-June	Incorporate any guidance on incorporating environmental justice into agency strategic plans by the Environmental Justice Council.	Ecology (internal): HEAL Implementation Team
2024- TBD		Work with Ecology offices, divisions, and programs to incorporate environmental justice metrics and goals into their planning. Continue to iteratively and collaboratively develop ambitious environmental justice goals and adopt them into future agency strategic plans.	

REQUIREMENT 4: Conduct Environmental Justice Assessments on Significant Agency Actions

(RCW.70A.02.060)

Requirements

Starting July 1, 2023, all covered agencies will begin conducting environmental justice assessments of all significant agency actions. The purpose is to inform and support the agency's consideration of overburdened communities and vulnerable populations when making decisions and to assist the agency with the equitable distribution of environmental benefits, the reduction of environmental harms, and the identification and reduction of environmental and health disparities.

There are four primary categories of action that will require an environmental justice assessment:

1. The development and adoption of significant legislative rules.
2. The development and adoption of any new grant or loan program.
3. A capital project, grant, or loan award of at least \$12,000,000.
4. The submission of agency request legislation to the office of the governor or the office of financial management.

Beginning in 2025, Ecology and the covered agencies are invited to expand their definitions of significant agency actions, with feedback from Tribes, the Environmental Justice Council, agency leadership, and affected communities.

An environmental justice assessment contains specific process requirements. The assessment process must:

- Use a cumulative environmental health impact analysis to help determine the impacts of the action.
- Identify overburdened communities and vulnerable populations impacted by the action.
- Identify if the proposed action will have impacts to federally recognized Tribes.
- Engage communities about the action, summarize community input, and incorporate feedback into agency actions. Offer process for appeals.
- Describe options for the agency to reduce, mitigate, or eliminate identified probable impacts. Develop and track related metrics over time.

This requirement also includes additional metrics and reporting requirements that will be shared publicly.

Actions Taken

- Ecology is in the process of **identifying current activities** that meet the statutory definition of a significant agency action. This involves meeting with relevant programs and program managers and discussing with agency leadership.
- Leading up to the July 1, 2023, statutory deadline, Ecology will work with the Interagency Work Group to create a provisional or pilot process to conduct environmental justice assessments.
- Ecology’s representatives on the Interagency Work Group will work to help adapt and adopt the collaboratively developed guidance to fit the specificities of our agency and programmatic specialties.

Looking Forward

Similar to our approach with community engagement plans, we will update the environmental justice assessment process every two years to add community feedback on the process and guidance from the Environmental Justice Council.

Projected Timeline – environmental justice assessments

Year	Month	Action	Responsible People
2023	January	Identify activities at Ecology that meet the statutory definition of a significant agency action.	Ecology (internal): Heal Implementation Team
	January-February	Create initial process for environmental justice assessments, ideally with Environmental Justice Council representatives	Interagency Work Group: Ecology representative
	February	Legislative Requirement: Engage the Environmental Justice Council formally, seeking guidance on identified significant agency actions and processes for conducting environmental justice assessments.	Interagency Work Group: Ecology representative
	March	Legislative Requirement: Open list of significant agency actions for public comment	Interagency Work Group: Ecology representative Communications
	March-November	Hold community listening sessions across the state to help inform the environmental justice assessment process	Interagency Work Group: Ecology representative
	May	Incorporate early feedback and revise environmental justice assessment process	Ecology (internal): Heal Implementation Team
	June	Legislative Requirement: Publish on agency website the types of agency actions that Ecology has determined are significant agency actions that require an environmental justice assessment, as well as provide	Ecology (internal): Heal Implementation Team

		notification of those determinants to the Washington State Register.	
	June	Legislative Requirement: Finalize first-iteration of agency specific guidance, akin to a checklist or step-by-step process, on how to conduct environmental justice assessments on relevant projects (including self-serve educational materials and offering limited trainings).	Ecology (internal): Heal Implementation Team
	July 1 st	Legislative Requirement: Begin conducting environmental justice assessments to inform and support the agency's consideration of overburdened communities and vulnerable populations when making decisions and to assist the agency with the equitable distribution of environmental benefits, the reduction of environmental harms, and the identification and reduction of environmental and health disparities.	Ecology (internal): Heal Implementation Team Relevant staff
	July-December	Assess, analyze, and improve environmental justice assessment process internally	Ecology (internal): Heal Implementation Team
2024	April-August	Legislative Requirement: Identify other programs that meet the statutory definition of significant agency actions.	Ecology (internal): Heal Implementation Team
	September 1 st	Legislative Requirement: Share findings in the legislatively mandated annual report, soliciting engagement from the council.	Ecology (internal): Heal Implementation Team
2025	January-May	Legislative Requirement: Repeat engagement processes above to assess the new expanded scope of significant agency actions.	Ecology (internal): Heal Implementation Team
	May-June	Ensure that programs and projects affected by scope expansion have educational and training materials to prepare them to begin conducting environmental justice assessments.	Ecology (internal): Heal Implementation Team
	July 1 st	Legislative Requirement: Launch environmental justice assessment process for expanded scope significant agency actions.	Ecology (internal): Heal Implementation Team & Interagency Work Group: Ecology Representatives
	TBD	Legislative Requirement: Assess, analyze, and improve this process at least once every two years, in collaboration with the Interagency Work Group.	Ecology (internal): Heal Implementation Team & Interagency Work Group: Ecology Representatives

REQUIREMENT 5: Incorporate Environmental Justice into Budgeting and Funding ([RCW.70A.02.080](#))

Requirements

All covered agencies must incorporate environmental justice principles into their decision processes for budget development, making expenditures, and granting or withholding environmental benefits. Each agency must find ways to equitably distribute funding and expenditures related to programs that address or may cause environmental harms or provide environmental benefits towards overburdened communities and vulnerable populations.

Beginning July 1, 2023, covered agencies must take the following actions when making expenditure decisions of developing budget requests for the Office of Financial Management and the legislature, specifically for programs that address or may cause environmental harms or provide environmental benefits:

- Focus applicable expenditures on creating benefits for overburdened communities and vulnerable populations.
- Create opportunities for overburdened communities and vulnerable populations to meaningfully participate in expenditure decisions.
- Clearly articulate environmental justice goals and performance metrics to communicate the basis for agency expenditure.
- Consider a broad scope of grants and contracting opportunities that effectuate environmental justice principles.
- Establish a goal of directing 40 percent of grants and expenditures that create environmental benefits to vulnerable populations and overburdened communities.

This requirement also includes additional metrics and reporting requirements that will be shared publicly.

Actions Taken

Ecology is on track to meet this deadline, but the process is still in development. Steps taken towards implementing this requirement so far include:

- Early assessment and planning meetings with agency financial leaders at Ecology
- Clarifying the requirements and goals in the law across agencies with the Interagency Work Group
- Developing a budget-specific subcommittee through the Interagency Work Group

- Using a cumulative impacts approach, Ecology met and exceeded expectations of the Volkswagen settlement funding distributing 95% of the funds (71% of the projects) to highly impacted areas.

Looking Forward

The bulk of the work for this requirement will be conducted in 2023.

- The Office of Equity and Environmental Justice will partner with the Government Relations team to launch **an agency survey on our grants processes** in early 2023.
- Ecology will work with Interagency Work Group to **develop shared environmental justice principles** that will guide budget equity work, with the goal of soliciting feedback from the Environmental Justice Council in February 2023, and adopting them in March.
- Ecology will **develop methods to assess, analyze and improve budget and expenditure equity**, and produce guidance on best practices, methods for evaluation, and metrics.
- The agency will **pilot programs and projects** with new guidance, paying special attention to opportunities for improvement from programs and agency leadership.
- In collaboration with the Interagency Work Group, Ecology will also **solicit high-level feedback** on budget and expenditure equity from the Environmental Justice Council, and more broadly, rolled into community listening sessions launching in March of 2023.

Projected Timeline – incorporating environmental justice into budgeting and funding

Year	Month	Action	Responsible People
2022	November	Ecology released the 2023-2025 Biennial Strategic Plan, in which the agency committed to incorporating environmental justice and equity criteria in budget and funding decisions, moving our agency towards the 40% goal. Legislative Requirement: Each covered agency must establish a goal of directing 40% of grants and expenditure to vulnerable populations and overburdened communities.	Ecology (internal): Agency leadership
2023	January	Interagency Work Group will identify and align shared environmental justice principles that will be incorporated into budgetary and expenditure processes per legislative requirement	Interagency Work Group: Ecology representative
	January-February	Agency survey on environmental justice in grants processes designed	Ecology (internal): HEAL Implementation Team Government Relations Office

	February	Share the environmental justice principles accepted by the Interagency Work Group with the Environmental Justice Council for feedback and guidance	Interagency Work Group
	February-March	Agency survey on environmental justice in grants launched, analyzed	Ecology (internal): HEAL Implementation Team Government Relations Office
	March	Incorporate any guidance from the Environmental Justice Council on proposed environmental justice principles into high-level processes for interagency alignment. Legislative Requirement: Incorporate principles, after iterative consultation, into process design for assessing the equitable distribution of funding and expenditures.	Interagency Work Group: Ecology representative
	March	Develop methods to assess, analyze and improve budget expenditure and equity that reflect agreed upon principles, including all the legislative requirements.	Ecology (internal): HEAL Implementation Team
	March-May	Pilot budget equity programs and projects at Ecology (targeting those with largest financial impacts to ensure we are working towards our 40% goal).	Ecology (internal): HEAL Implementation Team Relevant financial offices
	May	Develop lessons learned from initial pilots.	Ecology (internal): HEAL Implementation Team Relevant financial offices
	End of May	Develop and share guidance widely with relevant programs.	Ecology (internal): HEAL Implementation Team Relevant financial offices
	June	Write report that summarizes the types of decision processes for budget development, making expenditures, and granting or withholding environmental benefits for which the agency will take to meet the requirement. Solicit feedback from relevant parties at the agency.	Ecology (internal): HEAL Implementation Team Relevant financial offices Communications
	July 1st	Legislative Requirement: Ecology will publish on its website the types of decision processes for budget development, making expenditures, and granting or withholding environmental benefits for which the agency will take to meet the requirement	Ecology (internal): HEAL Implementation Team Relevant financial offices Communications
	September	Legislative Requirement: In Ecology's annual report, the agency will engage the Environmental Justice Council over the implementation of environmental justice assessments, welcoming guidance for improvements.	Interagency Work Group: Ecology Representative
	October-December	Expand budget equity processes into other relevant agency processes, programs, and actions.	Ecology (internal): HEAL Implementation Team Relevant financial teams

2024		Continue improving budget equity processes, ongoing implementation	Ecology (internal): HEAL Implementation Team
2025		Continue improving budget equity processes, ongoing implementation	Ecology (internal): HEAL Implementation Team

Learn and Connect with the HEAL Team

The passage of the HEAL Act in 2021 was a significant step towards transforming state agency policy and practice. In its implementation, it will further environmental justice in Washington state. This implementation plan outlines the path we will take to achieve the aims of the HEAL Act and monitor its progress in implementation. We will regularly update and strengthen this plan, and incorporate direction and feedback from Tribal consultation, Environmental Justice Council, community engagement, Legislature, and Governor's Office.

Learn more about implementation of the HEAL Act and environmental justice by visiting [Ecology's Office of Equity & Environmental Justice](#) webpage.

For more information about HEAL implementation at Ecology please contact Courtney Cecale (courtney.cecale@ecy.wa.gov).

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